

By: Puente

H.B. No. 2490

A BILL TO BE ENTITLED

AN ACT

relating to the availability of a pretrial diversion program for certain defendants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 32, Code of Criminal Procedure, is amended by adding Article 32.03 to read as follows:

Art. 32.03. PRETRIAL DIVERSION. (a) In this article, "pretrial diversion program" means a program in which prosecution against the defendant is deferred and may be dismissed on the defendant's successful completion of the conditions of the program.

(b) A prosecutor shall determine, considering the restrictions on eligibility provided by this subsection and the seriousness of the offense charged and the facts of the case, whether a defendant is eligible to participate in a pretrial diversion program. A defendant is not eligible for participation in a pretrial diversion program if:

(1) the defendant has been previously convicted of an offense punishable by confinement; or

(2) the defendant is charged with a felony.

(c) A defendant who is determined by a prosecutor to be eligible for participation in a pretrial diversion program and who chooses to participate in a pretrial diversion program shall:

(1) pay a pretrial diversion filing fee of \$100 unless the judge for good cause waives the fee;

1           (2) pay court costs, if any;

2           (3) agree to fulfill all reasonable conditions  
3 provided by the pretrial diversion program agreement; and

4           (4) waive, in a sworn writing, the defendant's right to  
5 a speedy trial.

6           (d) The prosecutor shall determine the conditions of the  
7 program and may alter or modify the conditions at any time during  
8 the program. The prosecutor may impose and provide in the agreement  
9 any reasonable condition that is designed to protect or restore the  
10 community, protect or restore the victim, or punish, rehabilitate,  
11 or reform the defendant. Reasonable conditions include that the  
12 defendant:

13           (1) agree to abide by all laws and commit no new  
14 offenses under the laws of any state or the United States;

15           (2) agree to support dependents and fulfill family  
16 responsibilities;

17           (3) agree to remain gainfully employed, to seek  
18 employment, or to attend school on a full-time basis;

19           (4) agree to report to the prosecutor or a community  
20 supervision and corrections department officer, as appropriate;

21           (5) agree to truthfully answer all reasonable  
22 inquiries directed to the defendant by the prosecutor, a court, or a  
23 community supervision and corrections department officer;

24           (6) agree to report, within 24 hours, any contact  
25 between the defendant and a peace officer to the prosecutor or a  
26 community supervision and corrections department officer; and

27           (7) agree to report any change of address or telephone

1 number, within seven days, to the prosecutor or a community  
2 supervision and corrections department officer.

3 (e) Before placing a defendant in a pretrial diversion  
4 program, the prosecutor shall admonish the defendant that the  
5 failure of the defendant to comply with any condition imposed on the  
6 defendant may result in the forfeiture of any fee paid for the  
7 program and prosecution for the offense for which the defendant is  
8 charged.

9 SECTION 2. Section 103.021, Government Code, is amended to  
10 read as follows:

11 Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR  
12 CIVIL CASES. An accused or defendant, or a party to a civil suit,  
13 as applicable, shall pay the following fees and costs if ordered by  
14 the court or otherwise required:

15 (1) a personal bond fee (Art. 17.42, Code of Criminal  
16 Procedure) . . . the greater of \$20 or three percent of the amount  
17 of the bail fixed for the accused;

18 (2) cost of electronic monitoring as a condition of  
19 release on personal bond (Art. 17.43, Code of Criminal  
20 Procedure) . . . actual cost;

21 (3) a fee for verification of and monitoring of motor  
22 vehicle ignition interlock (Art. 17.441, Code of Criminal  
23 Procedure) . . . not to exceed \$10;

24 (4) repayment of reward paid by a crime stoppers  
25 organization on conviction of a felony (Art. 37.073, Code of  
26 Criminal Procedure) . . . amount ordered;

27 (5) reimbursement to general revenue fund for payments

1 made to victim of an offense as condition of community supervision  
2 (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50  
3 for a misdemeanor offense or \$100 for a felony offense;

4 (6) payment to a crime stoppers organization as  
5 condition of community supervision (Art. 42.12, Code of Criminal  
6 Procedure) . . . not to exceed \$50;

7 (7) children's advocacy center fee (Art. 42.12, Code  
8 of Criminal Procedure) . . . not to exceed \$50;

9 (8) family violence shelter center fee (Art. 42.12,  
10 Code of Criminal Procedure) . . . not to exceed \$100;

11 (9) community supervision fee (Art. 42.12, Code of  
12 Criminal Procedure) . . . not less than \$25 or more than \$60 per  
13 month;

14 (10) additional community supervision fee for certain  
15 offenses (Art. 42.12, Code of Criminal Procedure) . . . \$5 per  
16 month;

17 (11) for certain financially able sex offenders as a  
18 condition of community supervision, the costs of treatment,  
19 specialized supervision, or rehabilitation (Art. 42.12, Code of  
20 Criminal Procedure) . . . all or part of the reasonable and  
21 necessary costs of the treatment, supervision, or rehabilitation as  
22 determined by the judge;

23 (12) fee for failure to appear for trial in a justice  
24 or municipal court if a jury trial is not waived (Art. 45.026, Code  
25 of Criminal Procedure) . . . costs incurred for impaneling the  
26 jury;

27 (13) costs of certain testing, assessments, or

1 programs during a deferral period (Art. 45.051, Code of Criminal  
2 Procedure) . . . amount ordered;

3 (14) special expense on dismissal of certain  
4 misdemeanor complaints (Art. 45.051, Code of Criminal  
5 Procedure) . . . not to exceed amount of fine assessed;

6 (15) an additional fee:

7 (A) as an administrative fee for requesting a  
8 driving safety course or a course under the motorcycle operator  
9 training and safety program for certain traffic offenses to cover  
10 the cost of administering the article (Art. 45.0511(f)(1), Code of  
11 Criminal Procedure) . . . not to exceed \$10; or

12 (B) for requesting a driving safety course or a  
13 course under the motorcycle operator training and safety program  
14 before the final disposition of the case (Art. 45.0511(f)(2), Code  
15 of Criminal Procedure) . . . not to exceed the maximum amount of  
16 the fine for the offense committed by the defendant;

17 (16) a request fee for teen court program (Art.  
18 45.052, Code of Criminal Procedure) . . . not to exceed \$10;

19 (17) a fee to cover costs of required duties of teen  
20 court (Art. 45.052, Code of Criminal Procedure) . . . \$10;

21 (18) a mileage fee for officer performing certain  
22 services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15  
23 per mile;

24 (19) certified mailing of notice of hearing date (Art.  
25 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

26 (20) certified mailing of certified copies of an order  
27 of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2,

1 plus postage;

2 (21) sight orders:

3 (A) if the face amount of the check or sight order  
4 does not exceed \$10 (Art. 102.007, Code of Criminal  
5 Procedure) . . . not to exceed \$10;

6 (B) if the face amount of the check or sight order  
7 is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of  
8 Criminal Procedure) . . . not to exceed \$15;

9 (C) if the face amount of the check or sight order  
10 is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of  
11 Criminal Procedure) . . . not to exceed \$30;

12 (D) if the face amount of the check or sight order  
13 is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of  
14 Criminal Procedure) . . . not to exceed \$50; and

15 (E) if the face amount of the check or sight order  
16 is greater than \$500 (Art. 102.007, Code of Criminal  
17 Procedure) . . . not to exceed \$75;

18 (22) a fee for pretrial intervention program (Art.  
19 102.012, Code of Criminal Procedure) . . . not to exceed \$500;

20 (23) parking fee violations for child safety fund in  
21 municipalities with populations:

22 (A) greater than 850,000 (Art. 102.014, Code of  
23 Criminal Procedure) . . . not less than \$2 and not to exceed \$5;  
24 and

25 (B) less than 850,000 (Art. 102.014, Code of  
26 Criminal Procedure) . . . not to exceed \$5;

27 (24) an administrative fee for collection of fines,

1 fees, restitution, or other costs (Art. 102.072, Code of Criminal  
2 Procedure) . . . not to exceed \$2 for each transaction;

3 (25) a court reporter fee when testimony is taken:

4 (A) in a criminal court in Dallas County (Sec.  
5 25.0593, Government Code) . . . \$3;

6 (B) in a county criminal court of appeals in  
7 Dallas County (Sec. 25.0594, Government Code) . . . \$3;

8 (C) in a county court at law in McLennan County  
9 (Sec. 25.1572, Government Code) . . . \$3; and

10 (D) in a county criminal court in Tarrant County  
11 (Sec. 25.2223, Government Code) . . . \$3;

12 (26) a speedy trial filing fee in El Paso County (Sec.  
13 54.745, Government Code) . . . \$100;

14 (27) costs for use of magistrate in Brazos County  
15 (Sec. 54.1116, Government Code) . . . not to exceed \$50;

16 (28) an administrative fee for participation in  
17 certain community supervision programs (Sec. 76.015, Government  
18 Code) . . . not less than \$25 and not more than \$40 per month;

19 (29) in family matters:

20 (A) issuing writ of withholding (Sec. 8.262,  
21 Family Code) . . . \$15;

22 (B) filing copy of writ of withholding to  
23 subsequent employer (Sec. 8.267, Family Code) . . . \$15;

24 (C) issuing and delivering modified writ of  
25 withholding or notice of termination (Sec. 8.302, Family  
26 Code) . . . \$15;

27 (D) issuing and delivering notice of termination

- 1 of withholding (Sec. 8.303, Family Code) . . . \$15;
- 2 (E) issuance of change of name certificate (Sec.  
3 45.106, Family Code) . . . \$10;
- 4 (F) protective order fee (Sec. 81.003, Family  
5 Code) . . . \$16;
- 6 (G) filing suit requesting adoption of child  
7 (Sec. 108.006, Family Code) . . . \$15;
- 8 (H) filing fees for suits affecting parent-child  
9 relationship (Sec. 110.002, Family Code):
- 10 (i) suit or motion for modification (Sec.  
11 110.002, Family Code) . . . \$15;
- 12 (ii) motion for enforcement (Sec. 110.002,  
13 Family Code) . . . \$15;
- 14 (iii) notice of application for judicial  
15 writ of withholding (Sec. 110.002, Family Code) . . . \$15;
- 16 (iv) motion to transfer (Sec. 110.002,  
17 Family Code) . . . \$15;
- 18 (v) petition for license suspension (Sec.  
19 110.002, Family Code) . . . \$15;
- 20 (vi) motion to revoke a stay of license  
21 suspension (Sec. 110.002, Family Code) . . . \$15; and
- 22 (vii) motion for contempt (Sec. 110.002,  
23 Family Code) . . . \$15;
- 24 (I) order or writ of income withholding to be  
25 delivered to employer (Sec. 110.004, Family Code) . . . not to  
26 exceed \$15;
- 27 (J) filing fee for transferred case (Sec.

1 110.005, Family Code) . . . \$45;

2 (K) filing a writ of withholding (Sec. 158.319,  
3 Family Code) . . . \$15;

4 (L) filing a request for modified writ of  
5 withholding or notice of termination (Sec. 158.403, Family  
6 Code) . . . not to exceed \$15;

7 (M) filing an administrative writ to employer  
8 (Sec. 158.503, Family Code) . . . not to exceed \$15; and

9 (N) genetic testing fees in relation to a child  
10 born to a gestational mother (Sec. 160.762, Family Code) . . . as  
11 assessed by the court;

12 (30) in juvenile court:

13 (A) fee schedule for deferred prosecution  
14 services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a  
15 month;

16 (B) a teen court administration fee (Sec. 54.032,  
17 Family Code) . . . not to exceed \$10;

18 (C) court costs for juvenile probation diversion  
19 fund (Sec. 54.0411, Family Code) . . . \$20;

20 (D) a juvenile delinquency prevention fee (Sec.  
21 54.0461, Family Code) . . . \$5; and

22 (E) a court fee for child's probationary period  
23 (Sec. 54.061, Family Code) . . . not to exceed \$15 a month;

24 (31) a court reporter service fee if the courts have  
25 official court reporters (Sec. 51.601, Government Code) . . . \$15;

26 (32) administrative fee on dismissal of charge of  
27 driving with an expired motor vehicle registration (Sec. 502.407,

1 Transportation Code) . . . not to exceed \$10;

2 (33) administrative fee on dismissal of charge of  
3 driving with an expired driver's license (Sec. 521.026,  
4 Transportation Code) . . . not to exceed \$10;

5 (34) administrative fee on remediation of charge of  
6 driving with an expired inspection certificate (Sec. 548.605,  
7 Transportation Code) . . . not to exceed \$10;

8 (35) administrative fee for failure to appear for a  
9 complaint or citation on certain offenses (Sec. 706.006,  
10 Transportation Code) . . . \$30 for each violation;

11 (36) administrative fee for failure to pay or satisfy  
12 certain judgments (Sec. 706.006, Transportation Code) . . . \$30;

13 (37) fee paid on filing a petition for an order of  
14 nondisclosure of criminal history record information in certain  
15 cases (Sec. 411.081, Government Code) . . . \$28; ~~and~~

16 (38) a pretrial diversion filing fee (Art. 32.03, Code  
17 of Criminal Procedure) . . . \$100; and

18 (39) on a finding that an animal's owner has cruelly  
19 treated the animal, court costs including:

20 (A) investigation (Sec. 821.023, Health and  
21 Safety Code) . . . actual costs;

22 (B) expert witnesses (Sec. 821.023, Health and  
23 Safety Code) . . . actual costs;

24 (C) housing and caring for the animal during its  
25 impoundment (Sec. 821.023, Health and Safety Code) . . . actual  
26 costs;

27 (D) conducting any public sale ordered by the

1 court (Sec. 821.023, Health and Safety Code) . . . actual costs;  
2 and

3 (E) humanely destroying the animal if  
4 destruction is ordered by the court (Sec. 821.023, Health and  
5 Safety Code) . . . actual costs.

6 SECTION 3. The change in law made by this Act applies only  
7 to an offense committed on or after the effective date of this Act.  
8 An offense committed before the effective date of this Act is  
9 covered by the law in effect when the offense was committed, and the  
10 former law is continued in effect for that purpose. For purposes of  
11 this section, an offense is committed before the effective date of  
12 this Act if any element of the offense occurs before the effective  
13 date.

14 SECTION 4. This Act takes effect September 1, 2005.